

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DAVID ABARA,

Petitioner,

vs.

JACK PALMER, *et al.*,

Respondents.

Case No. 3:10-cv-00688-HDM-VPC

ORDER

This action is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner represented by counsel.

By order filed August 16, 2013, this Court granted respondents' motion to dismiss the amended petition. (ECF No. 46). Judgment was entered on August 16, 2013. (ECF No. 47). Petitioner appealed. (ECF No. 48). On October 14, 2015, the United States Court of Appeals for the Ninth Circuit filed an unpublished memorandum opinion reversing this Court's dismissal of the action. (ECF No. 55). Specifically, the Court of Appeals reversed this Court's dismissal of Grounds 1, 2, and 7 of the amended petition as untimely and reversed this Court's dismissal of Ground 9 as unexhausted. (ECF No. 55). The Court of Appeals remanded the case for consideration on the merits of Grounds 1, 2, 7, and 9 of the amended petition. (*Id.*). The Court of Appeals issued its mandate on November 6, 2015. (ECF No. 56). Respondents are now required to file an answer addressing the merits of Grounds 1, 2, 7, and 9 of the amended petition. Thereafter, petitioner shall file a reply to the answer.

1 **IT IS THEREFORE ORDERED** that the Clerk of Court **SHALL REOPEN** this action.

2 **IT IS FURTHER ORDERED** that respondents **SHALL FILE AND SERVE AN**
3 **ANSWER** to Grounds 1, 2, 7, and 9 of the amended petition within **forty-five (45) days** from the
4 date of entry of this order. The answer shall include substantive arguments on the merits of
5 Grounds 1, 2, 7, and 9 of the amended petition. In filing the answer, respondents shall comply with
6 the requirements of Rule 5 of the Rules Governing Proceedings in the United States District Courts
7 under 28 U.S.C. §2254 regarding providing relevant transcripts and the state court record. To the
8 extent that respondents may seek to raise procedural defenses to any grounds of the amended
9 petition, such arguments shall be included in the answer. **No further motions to dismiss will be**
10 **entertained in this case.**

11 **IT IS FURTHER ORDERED** that petitioner **SHALL FILE AND SERVE A REPLY** to
12 the answer, within **forty-five (45) days** of being served with the answer.

13 **IT IS FURTHER ORDERED** that the respondents **SHALL SUBMIT** courtesy copies of
14 all exhibits previously filed with the Court in this action, including those filed at ECF Nos. 17-23
15 and 25. The hard copy of all exhibits shall be forwarded, for this case, to the staff attorneys in
16 **Reno, Nevada** and shall be submitted not later than when the answer is filed.

17 Dated this 4th day of December, 2015.
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19 *Howard D. McKibben*

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21 HOWARD D. McKIBBEN
22 UNITED STATES DISTRICT JUDGE
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